



TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Artisan Cinematic Enterprises, Inc.)
)
Opposer,) Opposition No. 91154745
) Serial No. 75/741,143
v.)
)
Artisan Entertainment Inc.)
)
Applicant.)

Honorable Commissioner
Of Patents and Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

02-26-2003

U.S. Patent & TMO/TM Mail Rpt. Dt. #7

03 MAR - 7 11 53 30
APPEAL

ANSWER TO NOTICE OF OPPOSITION

Dear Sir:

Now comes Applicant Artisan Entertainment Inc., and as and for it Answer states as follows:

1. Admitted.
2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 2 of the Notice of Opposition, and therefore denies same.
3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegation set forth in numbered Paragraph 3 of the Notice of Opposition, and therefore denies the same.
4. Applicant admits that, according to the TARR Database of the Patent and Trademark Office, Opposer appears to own pending Application No. 75/765,407 for the mark ARTISAN, filed August 26,

m

1999 for "motion picture development and production" in International Class 41.

With respect to the remainder of the allegations and statements in Paragraph 4, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set of the facts set forth, and therefore denies them.

5. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 5 and therefore denies the same.

6. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 6 and therefore denies the same.

7. Applicant admits that on July 1, 1999 Applicant filed application for registration of the service mark ARTISAN ENTERTAINMENT for "providing information on current and future movie offerings via a global computer network" in International Class 41. Applicant admits that it was formerly known as Live Entertainment, Inc. With respect to the remainder of the allegations in numbered Paragraph 7, Applicant denies them.

8. Denied.

9. Applicant has not been advised of the alleged opposition filed against Applicant's Application Serial No. 75/741,143 for ARTISAN ENTERTAINMENT in International Class 35, and therefore denies same.

AFFIRMATIVE DEFENSES:

10. On information and belief, Opposer has never developed and produced a motion picture as alleged in the Opposition, and as sworn to in Application Serial No. 75/765,407.

11. On information and belief, Opposer's statement in numbered Paragraph 7 that "Opposer intends to offer (under its mark) its alleged services "once production and distribution of its theatrical properties have been completed". On this basis, Applicant has fraudulently stated in Application Serial No. 75/765,407 that it has developed and produced motion pictures since 1985.

12. On information and belief, Opposer has never released a motion picture film for theatrical release.

13. On information and belief, Opposer has no online services whatsoever related to its movie offerings. Therefore, there is no likelihood of confusion with Applicant's services under the mark ARTISAN ENTERTAINMENT.

14. The registration of Applicant's mark on/or in connection with the services identified in the application herein opposed is not likely to cause confusion as to the source of Opposer's alleged services offered under its corporate name and its alleged mark. Applicant's mark has been in use for at least 4 years without any evidence of confusion.

Wherefore, it is respectfully requested that the Notice of Opposition be denied, rejected or otherwise terminated with prejudice, and that a Notice of Allowance issue for the application herein opposed.

RESPECTFULLY SUBMITTED,

ARTISAN ENTERTAINMENT INC.

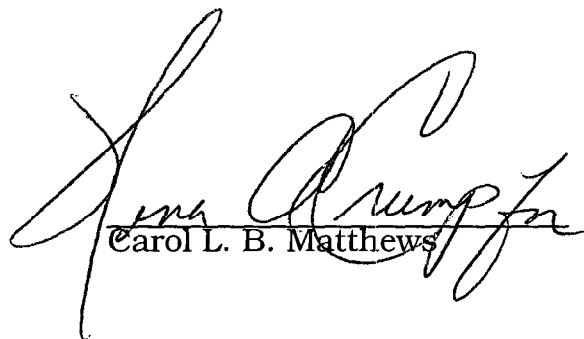
BY: 

Carol L. B. Matthews
HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000

DATED: 2/26/03

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Answer to Notice of Opposition was furnished by U.S. Mail to James R. Eley, Esq., Thompson Hine LLP, 10 W. Broad Street., Suite 700, Columbus, OH 43215-3435 this 20th day of March 2003.


Carol L. B. Matthews